

Message Text

CONFIDENTIAL

PAGE 01 USBERL 01763 01 OF 02 051413Z
ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 SSO-00 INRE-00 NSCE-00
USIE-00 CIAE-00 DODE-00 PM-04 H-01 INR-07 L-03
NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 IO-13
ACDA-07 OES-07 DLOS-09 TRSE-00 /088 W
-----056835 051417Z /47

O R 011648Z JUL 77 ZDK
FM USMISSION USBERLIN
TO SECSTATE WASHDC IMMEDIATE 4858
AMEMBASSY BONN IMMEDIATE
INFO AMEMBASSY LONDON
AMEMBASSY BRUSSELS
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION NATO
AMEMBASSY BERLIN

C O N F I D E N T I A L SECTION 1 OF 2 USBERLIN 1763

USEEC

C O R R E C T E D C O P Y (ADD BRUSSELS AS ADDEE)

DEPARTMENT FOR EUR/CE

E O 11652: GDS
TAGS: PGOV EEC FR GE GW UR UK US WB
SUBJ: EC/SOVIET FISHERIES NEGOTIATIONS: BERLIN AND THE
TERRITORIAL CLAUSE

REF: A) BONN 10800; B) USBERLIN 1715; C) BONN 10763 (EXDIS);
D) BONN 10485 AND OTHERS

1. REFTEL B WHICH ADDRESSED SOME POINTS RAISED
REFTEL A WAS SENT BEFORE RECEIPT REFTEL A. FOR SAKE
OF SIMPLICITY, IN COMMENTING BELOW ON REFTEL A, WE REPEAT
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USBERL 01763 01 OF 02 051413Z

SOME COMMENTS MADE IN REFTEL B. FOLLOWING COMMENTS
ARE GEARED TO REFTEL A FORMULATIONS A THROUGH G.

2. FORMULATION A. WE BELIEVE THIS FORMULATION
SATISFIES FULLY OUR OBJECTIVE OF EXTENSION OF THE
PROPOSED AGREEMENT TO BERLIN. THE CLAUSE "SHALL
APPLY TO THE TERRITORIES WITHIN WHICH THE TREATY

ESTABLISHING THE EEC IS APPLIED" IS SUCH A FACTUAL DESCRIPTION OF THE SCOPE OF APPLICATION OF EC TREATIES THAT IF THE SOVIETS REJECT THIS FORMULATION, THEY NOT ONLY REJECT APPLICATION TO BERLIN, BUT BRING INTO QUESTION THE EC'S ABILITY TO APPLY THE TREATY IN GENERAL. (THIS MAY BE A COROLLARY TO THE ISSUE WHETHER THE AGREEMENT IS SIGNED BY THE EC OR BY INDIVIDUAL MEMBER STATES) THE SOVIET OBJECTION TO THE CLAUSE "UNDER THE CONDITIONS LAID DOWN IN THAT TREATY" SEEMS TO US WITHOUT SUBSTANTIVE BASIS (SEE PARA 3 REFTTEL B); AND, IT MAY BE INTENDED AS A TACTICAL PLOY TO ENGENDER TURMOIL WITHIN THE EC. IF THAT WAS THE INTENTION, IT SUCCEEDED.

3. FORMULATION B. WE SHARE FRG CONCERN WITH UK FORMULATION. IN DEFINING EC AS COMPRISING, INTER ALIA, BERLIN, WE ALSO BELIEVE UK PROPOSAL WOULD BE LESS ACCEPTABLE TO SOVIETS. SUCH A FORMULATION IS MUCH LESS NEUTRAL THAN SAYING THE TREATY OF ROME IS APPLIED IN BERLIN. THE LATTER LEAVES QUESTIONS UNANSWERED WHICH THE FORMER PREJUDGES. ARGUABLY, IN FACT, THE ALLIES MAY NOT, AT THIS TIME, WISH IT SAID THAT THE EC "COMPRISES", INTER ALIA, BERLIN.

4. FORMULATION C. THE USE OF THE TERM "COMPETENCE"
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USBERL 01763 01 OF 02 051413Z

RAISES DIFFICULTIES COMPARABLE TO THOSE RAISED BY THE TERM "COMPRISES". THIS CLAUSE IS ALSO LESS LIKELY, IN OUR OPINION, TO BE ACCEPTED BY THE SOVIETS (SEE PARA 2 REFTTEL B). AND, IT IS NOT A CLAUSE DESCRIBING THE SCOPE OF APPLICATION OF THE AGREEMENT, BUT A CLAUSE DEFINING WHO THE PARTIES TO THE AGREEMENT ARE.

5. FORMULATION D. DELETION OF THE CLAUSE "AND UNDER THE CONDITIONS LAID DOWN IN THAT TREATY" WOULD NOT APPEAR TO COMPROMISE OUR BERLIN INTERESTS. WE ARE CONCERNED, HOWEVER, THAT THE SOVIETS MIGHT DEMAND ITS DELETION FOR SPECIOUS REASONS WHICH THE EC NEGOTIATORS MIGHT NOT DISPUTE AND WHICH THE SOVIETS WOULD LATER RELY UPON IN OBJECTION TO APPLICATION OF THE TREATY TO BERLIN. VIGILANCE ON THE PART OF EC NEGOTIATORS SHOULD ELIMINATE THIS RISK.

6. FORMULATION E. USBER BELIEVES ALLIES SHOULD NOT REPEAT NOT ACCEPT THIS FORMULATION. IN PARA 4 REFTTEL B WE HAVE OFFERED OUR VIEWS

WHY THERE SHOULD NOT REPEAT NOT BE A REFERENCE
TO THE QUADRIpartite AGREEMENT OF 1971 IN THIS
CLAUSE.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 USBERL 01763 02 OF 02 011735Z
ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 SSO-00 INRE-00 NSCE-00
USIE-00 CIAE-00 DODE-00 PM-04 H-01 INR-07 L-03
NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 IO-13
ACDA-07 OES-07 DLOS-09 TRSE-00 /088 W
-----027138 011754Z /47

O R 011648Z JUL 77
FM USMISSION USBERLIN
TO SECSTATE WASHDC IMMEDIATE 4859
AMEMBASSY BONN IMMEDIATE
INFO AMEMBASSY BRUSSELS
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION NATO
AMEMBASSY BERLIN

C O N F I D E N T I A L SECTION 2 OF 2 USBERLIN 1763

USEEC

DEPARTMENT FOR EUR/CE

7. FORMULATION F. WE READ REFTEL A
AS INDICATING THAT THIS FORMULATION HAS BEEN
WITHDRAWN BY FRG IN FAVOR OF FORMULATION G.

8. FORMULATION G. THIS TEXT IS LESS TROUBLESOME
THAN FORMULATION F (WHICH COULD BE READ TO DEFINE
EC AS COMPRISED OF TERRITORIES, INCLUDING BERLIN),
HOWEVER IT RETAINS THE TERM "COMPETENCE" OF
FORMULATION C. WHILE THAT TERM IS ITSELF SOMEWHAT
AMBIGUOUS, WE BELIEVE THE SOVIETS WOULD DISLIKE
ITS IMPLICATIONS. WE ALSO BELIEVE THE ALLIES
SHOULD QUESTION ITS IMPLICATIONS WITH RESPECT TO
SUPREME ALLIED AUTHORITY IN BERLIN. IN OUR
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USBERL 01763 02 OF 02 011735Z

VIEW, TO SAY, INSTEAD THAT THE TREATY ESTABLISHING THE EC IS "APPLIED" IN BERLIN NOT ONLY LESSENS THE LIKELIHOOD OF SOVIET OBJECTION, BUT BETTER PRESERVES THE ALLIED POSITION VIS-A-VIS THE EC ON BERLIN.

9. IN SUM,

(A) WE BELIEVE FORMULATION A OR D WOULD SATISFY ALLIED CONCERNS REGARDING APPLICATION OF THE EC-SOVIET FISHERIES TREATY TO BERLIN.

(B) IN OUR VIEW, ANY OF THE OTHER FORMULATIONS WOULD POSE MORE PROBLEMS FOR SOVIETS THAN A OR D; AND EACH WOULD REQUIRE CAREFUL SCRUTINY TO ENSURE THAT ALLIED VIEWS REGARDING THE EC-BERLIN RELATIONSHIP WERE NOT COMPROMISED.

10. THAT HAVING BEEN SAID, WE STRONGLY SUPPORT VIEW THAT EC SHOULD NOT REPEAT NOT TABLE ALTERNATIVE TEXTS AT THIS TIME. WHETHER OR NOT SOVIETS TABLE A COUNTER-DRAFT, WE BELIEVE THEY SHOULD BE PROBED FOR THEIR REASONS FOR REJECTING FORMULATION A. REFTEL D REPORTS THAT THE SOVIETS "MIGHT" ACCEPT FORMULATION A IF THE CLAUSE "AND UNDER THE CONDITIONS LAID DOWN IN THAT TREATY" IS DELETED. THIS IS A FEEBLE OFFER WHICH LEAVES THE SOVIETS MUCH ROOM TO COME UP WITH NEW OBJECTIONS. IF THE EC BEGINS OFFERING ALTERNATIVE TEXTS IN REACTION TO SUCH OFFERS, WE FEAR THE EC WILL BE PLAYING RIGHT INTO THE SOVIET HANDS. GEORGE

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FISHERIES, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 01-Jul-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977USBERL01763
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770235-0973, D770246-0046
Format: TEL
From: USBERLIN USEEC EEC
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770796/aaaadfld.tel
Line Count: 204
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 70e1f071-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 77 BONN 10800, 77 USBERLIN 1715, 77 BONN 10763
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 02-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1978312
Secure: OPEN
Status: NATIVE
Subject: EC/SOVIET FISHERIES NEGOTIATIONS: BERLIN AND THE TERRITORIAL CLAUSE
TAGS: PGOV, FR, GC, GE, UR, UK, US, WB, EEC
To: STATE BONN
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/70e1f071-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009